

Hon. Jed S. Rakoff
United States District Court
Southern District of New York
500 Pearl Street-Room 1340
New York, NY 10007.

September 16, 2022

. Re: U.S. v. Willie Dennis, 20-cr-623 (JSR) Ex-Parte Application-Urgent-Third Request
To Serve Subpoenas Via E-Mail to Rosemary Alito, Michael Caccese, David Tang and Bradford Smith

Your honor

I am writing to you with an emergency request to serve via e-mail today, September 16, 2022, the subpoenas executed by Judge Lorna Schofield for Rosemary Alito, Michael Caccese and David Tang on August 11, 2022 and delivered to the US Marshalls on August 12, 2022. As of the date of this communication, the US Marshalls have not completed service.

I am also writing again to seek the e-mail service of Bradford Smith. Nationwide Court Services has tried repeatedly to serve Mr Smith with no success. See the attached affidavit of Hillary Lynn Hitz (Process Server #2220715) of Nationwide Court Service.

Rosemary Alito, Michael Caccese and David Tang

Ms Alito, Mr Caccese and Mr. Tang are the only three members of KL Gates executive team for whom Judge Rakoff is permitting me to subpoena, thus their testimony is critical to my defense. Without their testimony I will not be able mount a proper defense. I attach for your review the ex parte application submitted to Judge Schofield which states in detail the need for their testimony which Judge Schofield approved

I also remind the Court that Ms. Alito, Mr Caccese and Mr. Tang are listed on KL Gates witness list dated November 15, 2021 in Willie Dennis v KL Gates LLP, et al., No. 1:20-cv-09393-MKV and the and SDNY's No Contact List dated December 1, 2022 (1)

The Court's past refusals to (I) discuss the issue of service with the US Marshalls (August 19, 2022) or (II) permit the service of subpoenas via e-mail (September 2 2022 and September 6, 2022) clearly favors SDNY, which already has had two years to talk with Mr Alito Mr. Caccese and Mr. Tang, in its prosecution of me and has materially harmed my rights to a fair and speedy trial.

Attempts of Service Since August 12, 2023 of Rosemary Alito, Michael Caccese and David Tang

Per the instructions of Judge Schofield, the subpoenas were delivered to the US Marshalls on August 12, 2022. At the first status conference hearing on August 18, 2022 , I brought to the Court's attention that the subpoenas had been issued, but that I was not getting any response from the US Marshall's office. This was of course very disconcerting as the trial was then scheduled for September 28, 2022.. Your honor responded by stating that that he believed newly appointed standby counsel, Karloff Comissiong, would be able to accelerate this final step in the subpoena process ensure the subpoenas were served by the US Marshalls (See pages 19-22 of the transcript of the Status Conference Hearing Held on August 18, 2022)

Approximately Thirty (30) days later, Mr Karloff has not made any progress on this front In fact Mr

Commissioning has not even responded to my most recent request for an update on his efforts. (2)

I remind the Court I have brought this failure by the US Marshalls to serve these three witness critical to my defense on three different occasions, most recently September 6, 2022 :

“1. Since August 12, 2022, the US Marshalls have been unable to serve subpoenas on Rosemary Alito. Michael Cáccese and David Tang , as requested on September 2, 2022, Mr Dennis requests the Court immediately permit the service of the subpoenas by Nationwide Court Services (“ Nationwide”) via e-mail immediately to the KL Gates’ work e-mail addresses of Ms Alito (rosemary.alito@klgates.com) Mr Cáccese (michael.caccese@klgates.com)and Mr. Tang (david.tang@klgates.com).

Service can also be made simultaneously to the Counsel of KL Gates in Willie Dennis v KL Gates, Proskauer Rose: Kathleen McKenna (KMckenna@proskauer.com) Rachel Fisher (rfischer@proskauer.com) and Hadassa Waxman (HWaxman@proskauer.com). As the attorneys at Proskauer have in the past, without my consent or knowledge, communicated with the the Federal Defenders of New York I do not presume this would be an issue for Proskauer Rose. (See attached Termination of Representation by the Federal Defenders of New York) “

Mr Dennis notes that In each instance the Court has denied my requests for e-mail service without explanation, fully aware of the (i) “ independent “ communications between The Federal Defenders of New York and Proskauer Rose and (ii) gross negligence by the Federal Defenders of New York, who despite representing me for over 7 months and even after a court date was set by Judge Schofield on April 4, 2022, failed to issue any subpoenas to any of the 31 attorneys listed on the SDNY No Contact list.

Finally and most importantly, Ms Alito, Michael Cáccese and David Tang are the three people who commenced this action which has now led to the involvement of among others, the Southern District of New York, the District Attorney’s Office of the City of New York, the US Marshalls, Microsoft, Marriott, Proskauer Rose, the Federal Defenders of New York, Anthony Cecutti, Judge Vyskocil Judge Schofield and now, however you will not facilitate bringing them to your courtroom to discuss why they felt this was necessary after they had destroyed my career and were at no risk.

Judge Schofield was willing and unafraid to tackle this issue head on.

As Ms Alito, Mr. Cáccese and Mr Tang are arguably three of the most critical witneesses in this case, the failure of the Court to quickly ensure their testimony at trial raises a host of questions including :

1 Was Judge Schofield reassignment from this matter on August 12, 2022 , related to her issuance of the subpoenas to Ms Alito, Mr. Cáccese and Mr. Tang on August 11, 2022 ?

(2 Why is Karloff Commissioning, the standby counsel appointed by your honor, who has had no success with convincing the US Marshalls to serve the subpoenas to Ms. Alito, Mr Cáccese or Mr. Tang, now advising Mr Dennis to seek a delay of the trial or attempt service now with a private company ?

Bradford Smith, President and Chief Legal Officer of Microsoft

Bradford Smith, the President and Chief Legal Officer of Microsoft is on Mr Dennis's witness list in Willie Dennis v. KL Gates and the SDNY's No Contact List (1).

Nationwide has tried repeatedly to issue subpoenas to Bradford Smith at his work address. At each attempt the process servers have been rebuffed by the corporate barriers erected to prevent powerful individuals from ever being served. In fact Nationwide has stated that many process servers will not even taken on services for Microsoft. The following are excerpts from the two affidavits of Hillary Lynn Hitz

(Process Server #2220715) attached for Mr. Bradford Smith.

August 25, 2022 3:58 pm PDT:

"I could not access building #1 it was closed due to construction. I stopped and talked to an employee by the name of Brad....I told him who I was looking for ...he told me he couldn't give me this information "

I called number 1 425-882-8080 and got the automated operator. I could not get through to leave a message for the HR department nor anyone else

August 29, 2022 2:39 pm. I called number 425-706-3024 and spoke with Keri Bancart. He told me the subject was not available. She wrote my contact information and told me that the subject's executive assistant is Tina and she would have her call me...."

Given Judge Rakoff's history with complex financial cases, Mr Dennis expects this will not surprise Judge Rakoff. Mr. Dennis is requesting the Court immediately permit the service of the subpoenas by Nationwide via e-mail immediately to the Microsoft work e-mail addresses of Bradford Smith (bradsmi@microsoft.com) to ensure the trial date is not changed again

Mr Dennis notes that with respect to Bradford Smith, the Court has denied my requests for e-mail service without explanation, fully aware of the gross negligence by the Federal Defenders of New York, who despite representing me for over 7 months and even after a court date was set by Judge Schofield on April 4, 2022, failed to issue any subpoenas to any of the 31 attorneys listed on the DOJ No Contact list.

Finally and most importantly Mr Smith is a witness that can provide testimony with respect to one of the most important questions in this case :

Why are three members of the executive team of the 5th largest publicly traded corporation in the world included on the Department of Justice's No Contact List, subjecting Mr. Dennis, to arrest and incarceration and relating solely to alleged " e-mail harrasment of partners of Microsoft's preferred legal provider, KL Gates ?

Time works against me as trial begins soon, and I face both potential motions to quash, and the shifting of my trial preparation.

At this point I am confused. Your honor was substituted in for Judge Schofield to ensure this matter which was commenced by the SDNY on October 28, 2020 would finally go to trial on September 28,

2022, and then over my objections on October 11, 2022. In denying my requests to provide service vis e-mail, coupled with the changing of the Court date from September 28, 2022 to October 11, 2023, makes clear that the reassignment of my case to your Honor was not made to keep the original trial date but rather to delay the trial for the benefit of SDNY and the partners of KL Gates. Knowing that Mr. Dennis is representing himself pro se -because of the negligence of his prior counsels and learning the rules of a new court, with the reason for the change in judges never being fully explained, the Court's refusal to work with Mr Dennis on small issues like service makes Mr Dennis wonder....

To ensure the newly scheduled trial date is not changed again because of the delay of issuance of subpoenas, I ask that the Court provide for e- mail service today. If the Court is unwilling to grant this request then i request a hearing today, during the Court's scheduled hours (4pm- 5pm)or such other time which is best for the Court with a court reporter present.

Respectfully submitted,

Willie Dennis
646-509-6889
woc2020@gmail.com

(1) SDNY No Contact List

From: Kushner, Sarah (USANYS) <Sarah.Kushner@usdoj.gov>
Sent: Wednesday, December 1, 2021 3:31:32 PM
To: Neil Kelly <Neil_Kelly@fd.org>
Subject: No-Contact List

Neil,

Here is the current list of individuals on the "no-contact" list for Willie Dennis. I haven't sent to pretrial yet – just left a voicemail for Josh Rothman asking who Dennis's PTS officer is.

Thank you,
Sarah

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CALVINA BOSTICK
JOHN BICKS
ROB MATLIN
ERIC COTTLE
PETER KALIS
CHARLES TEA
MELISSA TEA
PAUL SWEENEY
JILL LOUIS
DAVID TANG
NDENISARYA BREGASI
ROSEMARY ALITO
ANNETTE BECKER

MICHAEL CACCESE
MARY O'DAY
BOB ZINN
RICK GIOVANELLI
KIM ASKEW
MIKE ZANIC
WHITNEY SMITH
JAMES SEGERDAHL
PALLAVI WAHI
JEFFREY MALETTA
CAROL LUMPKIN
STEVE KAPLAN
LAURENCE PLATT
JOHN THOMPSON
KEVIN CHAVERS
BRAD SMITH
DEV STAHLKOPF
CHRIS REYNOLDS

(2) Communication with Kasloff Commissiong/ US Marshalls, Dated September 15, 2022

From: Willie Dennis <woc2020@gmail.com>
Date: 15 September 2022 at 2:17:35 PM GMT-4
To: "Karloff C. Commissiong, Esq." <karloff@amcmlaw.com>
Cc: Willie Dennis <woc2020@gmail.com>
Subject: Re: U.S. Marshal's Service of Executed Subpoenas to Rosemary Alito,, Michael Caccese and David Tang of KL Gates

Mr Commissiong,

We have been in conversations about the above subpoenas since August 18, when Judge Rakoff appointed you

Judge Rakoff at the time was confident in your ability to move this process along to a successful result quickly as Judge Rakoff wants to keep the October 11 trial date since at the first hearing he had to move it from the September 28 hearing date, in part based on your suggestion. Unfortunately you have been unable to make any progress for reasons unknown.

In any event as of this communication have the Marshalls served any of the subpoenas referenced above executed by Judge Schofield on August 11?

Willie

Sent from my iPad